

LFC Requester:**Anne Hanika-Ortiz****AGENCY BILL ANALYSIS
2016 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:****LFC@NMLEGIS.GOV***and***DFA@STATE.NM.US***{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}**Check all that apply:***Original** ☐ **Amendment** ☒**Correction** ☐ **Substitute** ☐**Date** Jan. 31, 2016**Bill No:** HB 171**Sponsor:** Rep. Larry Larrañaga/Sen. Ingle**Agency Code:** 305**Short** Law Enforcement Officers**Person Writing** Ari Biernoff**Title:** Returning to Work**Phone:** 827-6086**Email** abiernoff@nmag.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HJM 2 and SJM 3; Relates to HB 234.

SECTION III: NARRATIVE

BILL SUMMARY

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

House Bill 171, as amended ("HB 171A") amends the Public Employees Retirement Act ("PERA" or "the Act"). PERA provides in relevant part that a retired public employee covered by the Act may only be rehired by a covered public employer after at least a one-year break in service, *see* NMSA 1978, § 10-11-8(C)(1); that during such reemployment the retired employee's pension shall be suspended, *id.* § 10-11-8(C)(2); and that the retired employee shall not receive service credit or make pension contributions during her reemployment, *id.* § 10-11-8(C)(3).

HB 171A creates an exception to PERA for certified law enforcement officer retirees ("LEOR") provided there is a 90-day break in service. The LEORs would receive their pension, with any cost-of-living adjustments ("COLA") during their period of reemployment, but would not accrue service credit for the period of reemployment. The LEORs and their subsequent public employers would make required pension contributions during the period of reemployment. The LEORs may only be reemployed for a period of up to five years. HB 171A also limits the percentage of LEORs on the police force, and rank they may attain, for "class A count[ies] with a population over six hundred thousand" or "municipalit[ies] over fifty thousand located with [such a] county." At present, only Bernalillo County and the City of Albuquerque fit within that definition.

The House Safety and Civil Affairs Committee amended HB 171 on January 28, 2016.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

HB 171A could implicate Art. XX, Sec. 22 of the New Mexico Constitution, which requires that changes to the retirement system must be adequately funded.

Under HB171A, certain law enforcement officers would receive both a pension with a COLA, and a salary at the same time.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 171A conflicts with HJM 2 and SJM 3, which both request a moratorium on proposing and considering legislation that would affect retirement benefits administered under PERA. HB 171A also relates to HB 234, which creates a Pension Investment Plan for certain law enforcement officer retirees and allows those retirees to be reemployed post-retirement and elect whether to (1) participate as a “member” under PERA, and have their pension terminated and re-calculated at the end of their reemployment; (2) not participate in PERA, and have their pension and cost-of-living-adjustment (“COLA”) suspended during their reemployment; or (3) participate in the PIP, and have their pension and COLA put into their PIP account during reemployment.

TECHNICAL ISSUES

HB171A covers “certified law enforcement officers.” PERA does not presently use that category, but does include “municipal police member” and “state police member” as defined terms. *See* NMSA 1978, § 10-11-2(M)(5) and (6). The Legislature may want to harmonize PERA’s use of these overlapping, though perhaps not identical, terms.

HB171A *appears* to cover only certified law enforcement officers who retired on or before December 31, 2015, but the bill could be clearer that the clause “who have retired on or before December 31, 2015” modifies *both* “under any municipal police member coverage plan” *and* “or as a certified law enforcement officer covered under state police member and adult correctional officer member coverage plan 1,” e.g. “...who have retired on or before December 31, 2015 under any municipal police member coverage plan or state police member and adult correctional officer member coverage plan...”

OTHER SUBSTANTIVE ISSUES

In 2010, PERA was amended to end the possibility of double-dipping following retirement under plans administered by PERA. HB 171A appears to single out LEORs to allow them to be reemployed while simultaneously receiving their pensions. Other current PERA members would not be equally treated.

ALTERNATIVES

None suggested.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None suggested.